



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/169474

PRELIMINARY RECITALS

Pursuant to a petition filed October 16, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on November 12, 2015, at Racine, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overissuance of BC+ benefits from the Petitioner in the amount of \$540.59 for the period of February 1, 2013 – September 30, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jelena Jones

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On August 31, 2012, the agency issued a Notice of Decision to the Petitioner informing her that effective October 1, 2012, she and her minor son were enrolled in BC+. It notified her that her

- son had no monthly premium and that her monthly premium was \$63. The notice informed her that the agency's determination regarding eligibility and premiums was based on gross monthly earned income for the household of \$1,808.40. The notice also informed the Petitioner of the requirement to report to the agency by the 10th day of the next month if her gross monthly household income exceeded \$1,891.25.
3. On December 31, 2012, the agency issued a Notice of Decision to the Petitioner informing her that she and her son continued to be enrolled in BC+ effective January 1, 2013. It notified her that her son had no monthly premium and that her monthly premium was \$94. The notice informed her that the agency's determination regarding eligibility and premiums was based on gross monthly income of \$2,080. The notice also informed the Petitioner of the requirement to report to the agency by the 10th day of the next month if her gross monthly household income exceeded \$2,332.54
 4. On January 18, 2013, the agency issued a Notice of Decision to the Petitioner informing her that her son continued to be enrolled in BC+ effective February 1, 2013 with no monthly premium. It notified her that her premium had not been paid. It again notified her of the requirement to report to the agency by the 10th day of the next month if her gross monthly income exceeded \$2,332.54.
 5. On February 4, 2013, the Petitioner contacted the agency regarding medical insurance. The case comments state: "major medical ins covrge reported. Case ran and confirmed."
 6. On February 5, 2013, the agency issued a Notice of Decision to the Petitioner informing her that her son continued to be enrolled in BC+ effective March 1, 2013 with no monthly premium. It notified her that she was on a 6 month restrictive enrollment due to failure to pay premiums for herself. The notice informed her of the requirement to report to the agency by the 10th day of the next month if her gross monthly household income exceeded \$2,391.13.
 7. On or about March 11, 2013, the Petitioner submitted a Six Month Report Form (SMRF) to the agency. She reported no changes in her employment with [REDACTED], 40 hours/week at \$13/hour.
 8. On March 19, 2013, the agency issued a notice to the Petitioner that effective April 1, 2013, her son would be enrolled in Molina HealthCare, a BC+ HMO.
 9. On March 14, 2013 and July 16, 2013, the agency issued Notices of Decision to the Petitioner informing her that her son remained enrolled in BC+ with no monthly premium. The notices also informed her that if her household's monthly gross income exceeded \$2,391.13, she must report it to the agency by the 10th day of the next month.
 10. On June 12, 2013 and September 4, 2013, the agency received wage discrepancy alerts.
 11. On September 17, 2013, the agency issued a Notice of Decision to the Petitioner informing her that her BC+ benefits for her son would end effective October 1, 2013 due to failure to provide requested information.
 12. In September, 2015, the agency received earnings verification from [REDACTED] demonstrating the Petitioner's actual gross wage information as follows:

December, 2012	\$2,657.20	January, 2013	\$3,165.75
February, 2013	\$3,713.95	March, 2013	\$3,608.36
April, 2013	\$3,221.96	May, 2013	\$4,364.52
June, 2013	\$3,314.38	July, 2013	\$4,275.04
August, 2013	\$4,624.70	Sept., 2013	\$3,708.82
 13. On September 22, 2015, the agency issued a Medicaid/BadgerCare Overpayment Notice and worksheets to the Petitioner informing her that the agency intends to recover an overissuance of

BC+ benefits in the amount of \$540.69 for the period of February 1, 2013 – September 30, 2013 due to a client error in reporting income.

14. On October 16, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

In this case, the agency alleges that there was an overissuance of BC+ benefits based on the Petitioner's failure to accurately report her income. Specifically, the agency alleges that if the Petitioner had accurately reported her income, she would have been required to pay a premium in each month of the overpayment period for her son's BC+ coverage. No medical claims were paid by BC+ for Petitioner's son.

The Petitioner alleges that the overissuance was an agency error. She states that she contacted the agency and cancelled her insurance and her son's insurance. She testified that she had insurance through her employer and her son had insurance through his father's employer. She testified that she was not aware that the agency continued her son's insurance.

The case comments reflect that the Petitioner did contact the agency on February 4, 2013 to report "major medical coverage." The comments do not reflect whether the Petitioner reported that both she and her son were covered and no longer needed BC+ coverage. However, the agency clearly thought that the Petitioner only cancelled coverage for herself. The next day, on February 5, 2013, the agency issued a notice to the Petitioner informing her that her son continued to be enrolled in BC+. Subsequent notices were issued to the Petitioner on March 14, 2013 and July 16, 2013 informing her that her son continued to be enrolled in BC+. The Petitioner's claim that she was unaware that her son was enrolled in BC+ are not credible based on the numerous notices sent to her informing her otherwise. Without additional evidence, I am unable to conclude that the Petitioner cancelled her son's BC+ benefits.

The Petitioner did not dispute the verification of her actual gross wages during the overpayment period from her employer. The Petitioner's gross monthly household income exceeded the reporting requirements in each month of the overpayment period. The Petitioner's income exceeded 200% of the federal poverty level, requiring payment of a monthly premium for her son. I reviewed the agency's determination of the premiums that should have been paid for the Petitioner's son during the overpayment period and find that they are accurate based on the Petitioner's reported wages. I conclude the agency

properly seeks to recover an overissuance of BC+ benefits in the amount of \$540.59 for the period of February 1, 2013 – September 30, 2013.

CONCLUSIONS OF LAW

The agency properly seeks to recover an overissuance of BC+ benefits in the amount of \$540.59 for the period of February 1, 2013 – September 30, 2013.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 8th day of December, 2015

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 8, 2015.

Racine County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability